

March 9, 2006

Director, Commodity Procurement Policy & Analysis Division
Farm Service Agency, USDA
Room 5755-S
1400 Independence Avenue, SW
Washington, DC 20250-0512

Subject: Federal Register December 16, 2005 – Proposed Rule RIN 0560-AH39
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Muller Shipping Corporation, a forwarding agent actively participating for several decades in the U.S.-sponsored food aid programs on behalf of Cooperating Sponsors, respectively submits the following comments in response to the Federal Register notice dated December 16, 2005 regarding a proposed rule adopting new procedures to be used by the Commodity Credit Corporation in the evaluation of bids in connection with the procurement of commodities for donation overseas.

While we applaud the initiative and efforts of both the Agency for International Development and the Department of Agriculture in seeking improvements in the freight contracting system, we have several concerns and suggestions regarding the design of the proposed system and its impact on the various partners in the food aid logistics chain.

Impact on the Cooperating Sponsors

Over the years, there have been two major concerns repeatedly raised by cooperating sponsors related to the packaged commodity procurement system: First, the length of the lead time from when commodity requests are submitted to when they are available for shipment, and; Second, the fact that the procurement system is built around a rather broad production schedule rather than the needs of the program for arrival in country at a specified time. Unfortunately, we see no evidence that the FBES system will address either of these concerns.

From what we have seen, the lead time for the cooperating sponsor in submitting commodity requests will be exactly the same, but the change from a two-step process to a one-step process and the modifications on certain other aspects of the procurement schedule will actually reduce the amount of time for the cooperating sponsor to iron out details, particularly in regards to shipping requirements. Under the current two-step process, freight tenders are issued approximately five weeks after the call forward is submitted, during which time the cooperating sponsor may still consider and request specific shipping requirements. Under the proposed one-step system, this window will be cut in half since the freight tender will need to be issued approximately 2-1/2 weeks after submission of the commodity request.



If a new system is to be implemented, it would be an ideal time to consider how the needs of the cooperating sponsor could be improved regarding in-country arrival of commodities when they are needed. Under the system that has been in place for years, and as far as we can tell will continue to be the case under the proposed FBES system, commodity procurement will still be based on a monthly production schedule that makes no distinction regarding the requested in-country arrival requirements, allowing commodity suppliers to produce the commodity in either of two 15-day shipping windows each month (at their option), and sometimes ship earlier than their designated window. At the same time, freight offers are based on lowest cost, plus the statutory requirements of Cargo Preference, MSA-17, etc., without consideration of the widely divergent shipment schedules and transit times that may be offered by various carriers. Between these variables, the potential in-country arrival time can literally span a period of fifty days. Added to this unpredictability is that on requests with multiple commodities that are planned for simultaneous distribution, parcels may be awarded to different carriers and even to different coastal ranges, resulting in one commodity arriving more than a month earlier or later than other commodities.

The implementation of a this new system could be used to advance changes for the benefit of the cooperating sponsors, but such changes do not appear to be part of the current design.

Forwarding Agent Requirements

Our understanding is that the freight forwarder representing a cooperating sponsor will be required to issue a freight tender simultaneously with the KCCO Invitation and will have a narrow window of 72 hours to evaluate every carrier offer for responsiveness and to seek clarifications where necessary. Until this is tested, it's not at all clear whether this is a reasonable or realistic time frame for this process.

It is also not clear how a forwarding agent will be able to access the system, generate reports, download data, or otherwise determine if he has even seen every offer submitted or whether anything could be missing from his review. When the system was announced to the transportation industry about a year ago and questions were raised regarding these issues it appeared that nothing had been designed to meet the forwarder's needs.

The information available to the forwarders should not be restricted to offers made on commodities for our clients only, since offers often have contingencies that are affected by other commodities on the market, but also because seeing only a partial picture may make it impossible for us to see other potential concerns. At the same time, we should have the option of filtering information in individual reports/queries that are specific for each client, county, geographic region, carrier, forwarder, commodity, and perhaps other variables.

We currently capture data offers into our computer system and therefore have a source of historical data which can be used for budgets, forecasting, and other purposes. In order to have this same knowledge source we would request that we have a readily available ability to download this same data from the FBES system.

Our concerns are in extracting data and other necessary information from the system, in ways that are efficient, useful, practical, dependable, and no less beneficial than the data we currently have



available to us. In the presentations of the system we have attended, we have not seen any specific information in this regard. In fact, it has been our impression that very little consideration had been given to this aspect prior to these questions being asked during the presentation.

Cost and Regulatory Impact of FBES

The FBES system has been introduced, at least in part, as a way to achieve freight savings. Of course, this supposition might never be possible to prove or disprove, but at the very least by running FBES on a trial basis over the course of perhaps three or four monthly purchase cycles it should provide evidence that it is not resulting in substantially higher costs.

Perhaps just as important, running the two systems in parallel will have the advantage of testing known concerns as well as highlighting other possible situations that have not been considered in developing the system. We've already cited potential impact on the cooperating sponsors and the need to ascertain that the forwarders will be able to access, review and verify acceptability of freight offers. No doubt carriers will need to determine if they can input the necessary data without undue difficulty, and the overall responsiveness of the system. There could very well be a number of other items, which may or may not have been suggested, that also need to be put to the test.

One example of how converting to the proposed one-step process could reduce competition and/or result in higher freight rates is the fact that opportunities for combining packaged commodity shipments with bulk cargoes will be lost or greatly diminished. Currently there are instances where bulk commodity tenders and loading schedules coincide closely enough with packaged commodity freight tenders and load port dates that vessel owners can offer combinations that bring the freight rates down on both the bulk and packaged commodities. By advancing the contracting process on packaged commodities by approximately three weeks, these opportunities will be greatly diminished, if not virtually eliminated, since packaged commodity contracts will already be in place by the time bulk commodity tenders are issued.

When the FBES system was announced last year, specific individual purchases were used as examples to illustrate how the two-step process can result in commodities moving great distances across the U.S. and back in a seemingly illogical way, and/or resulting in much higher U.S. flag rates being booked in step two. These appeared to be illustrations of the fact that in the current two-step process commodities are sometimes purchased based on a P2 (U.S. Flag vessel Cargo Preference Priority 2) rate offer when P1 (U.S. Flag vessel Cargo Preference Priority 1) service was available for the cargo, but the P1 carrier did not bid a particular port or vendor delivery point in the first round. This idiosyncrasy of the current system has been pointed out many times over the years as the root cause of many of these anomalies, and it appears that is not being addressed in the FBES system. If that's correct, it means is that P1 carriers will be compelled to continue to offer freight rates from every conceivable vendor delivery point. The irony of this is that the system designers have explained that they must limit the number of quantity ranges (with lower rates based on higher volumes) that can be submitted by carriers because of the number of calculations that will be required to evaluate offers from so many vendor delivery points, but at the same time, FBES incorporates a well-considered design feature that might allow this obstacle to be overcome.



The FBES system design allows a carrier to fine-tune their bid on an individual parcel basis, providing the carrier with the flexibility to offer a different total rate on two parcels of the same commodity, even if both come from the same origin point and go to the same destination point. It was designed this way, at least in part, to allow a carrier to bid a different rate when there is a difference in the terms of the freight tenders for the two parcels, or when the parcel size or some other factor may affect the cost. An extra benefit that could be derived from this feature is the ability for the system to distinguish whether a P1 offer has been made on a specific parcel from even a single vendor delivery point, and thus, if the system were designed to ignore all P2 offers on this parcel until it was determined whether this parcel would be awarded to a P1 carrier, and only then would P2 offers for this same parcel be considered, a P1 carrier may not feel compelled to submit a rate offer from every conceivable vendor delivery point and could eliminate a huge number of potential system computations. This would not only address the issue of *making a distinction between P1 and P2* service, it could allow for additional quantity ranges to be added, which would almost certainly result in lower overall costs for the program. If this idea has been overlooked in the planning and design to date, perhaps it should be given serious consideration before the system is launched.

System Performance

As a user of the Food Aid Request Systems ("FARES") system we encounter difficulties in using the system that seem to be related to the system design or perhaps limitations of the platform on which it operates. Sometimes the system responds well, but at other times the response time is slow, pages do not open properly, and at times we are thrown out of the system. In light of the critical timing for the carriers to input their offers and for the forwarders to review the offers, the FBES system will need to be highly dependable.

Sincerely,
Muller Shipping Corporation
Paul Blizzard, President

A handwritten signature in dark ink, appearing to read 'Paul Blizzard', is written over a faint, circular, dotted-line stamp.